

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

SB 3880 – HB 3796

June 1, 2010

SUMMARY OF AMENDMENTS (019161, 019027, 019162, 018785, 019163,

019164): Reduces the capital outlay component of the Basic Education Program (BEP) formula by \$14 per square foot for K-4 classrooms and by \$12 per square foot for other classrooms in FY10-11 and subsequent years with the intent that the state share of the BEP formula not include growth in capital outlay. These provisions will not preclude the appropriation of non-recurring funds to the BEP for distribution to local education agencies through the BEP formula. Quarterly installments payable to the 20th and 30th judicial district offices (Davidson and Shelby Counties) may be reduced by an amount sufficient to meet the offices' pro-rata share of any reversion of funds in support of the Public Defenders' Conference over-appropriation. The operation of the Cook-Chill program is transferred to TRICOR from the Department of General Services. The Commissioner of Finance and Administration's authority to transfer funds from statutory reserves is extended through June 30, 2011. The requirement for the Governor to recommend a deposit to the rainy day fund is suspended for FY10-11.

Includes amounts allowable, without regard to any offset, to any debt issuers from the federal government with respect to qualified bonds within the definition of "revenues" as it applies to the state school bond authority. Increases from four to seven the percentage points above the average prime loan rate for recovery zone facility bonds issued by industrial development bonds. Changes references of "funds from the American Recovery and Reinvestment Act of 2009" to "federal funds allocated to the state" in regards to the wastewater facility and drinking water revolving loan funds. Prohibits records or materials received, developed, generated, ascertained, or discovered during the course of fulfilling a grant agreement between a public higher education institution and the Department of Economic and Community Development from being public records.

Amendment 019027 increases from 11 to 13 the members of the Douglas Henry State Museum Commission and includes the Senate and House Finance, Ways, and Means Committee Chairs. Amendment 019162 extends the realty transfer tax revenue allocated to the Wetland Acquisition Fund, Local Parks Land Acquisition Fund, State Lands Acquisition Fund, and Agricultural Resources Conservation Fund redirect to the General Fund for two years, effective through June 30, 2012. Amendment 018785 prohibits the collection of any tax due for any beer or ale that has been rendered unsalable and subsequently destroyed as a result of flooding occurring between May 1, 2010, and May 8, 2010. Any tax previously paid by the wholesaler on any such beer or ale that was destroyed will be allowed as a credit against the tax levied on the subsequent purchase of beer or ale by the wholesaler. This will only apply if the flooding resulted in the destruction of at least 50 barrels, or liquid volume equivalent, of beer or ale and satisfactory proof of the destruction is submitted to the Department of Revenue.

Amendment 019163 removes the state's financial assistance of development districts based on a per capita assessment and authorizes the state to appropriate a non-recurring grant of not more than \$1,500,000. Amendment 019164 reduces from \$16,300,000 to \$10,000,000 the annual allocation to the Tennessee Agriculture Enhancement Program from cigarette tax collections in FY10-11 through FY12-13.

FISCAL IMPACT OF ORIGINAL BILL:

Increase State Expenditures – Not Significant

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENTS:

Decrease State Revenue - \$150,000/One-Time

Decrease State Expenditures – Net Impact - \$295,200/General Fund

Increase State Expenditures - \$700/Each One-Day Meeting

State Expenditures – Cost Avoidance - \$29,600,000/General Fund

Increase Local Expenditures - Exceeds \$30,000/1st Year Debt Service/Permissive

Local Expenditures – Cost Avoidance - \$29,600,000/Permissive

Other Fiscal Impact – The proposed legislation authorizes the transfer of approximately \$292,151,500 in reserves from funds enumerated in Tenn. Code Ann. § 4-3-1016. The Cook-Chill program reserve fund of approximately \$1,500,000 will transfer to TRICOR from the Department of General Services. The extension of the realty tax revenue redirect for FY10-11 and FY11-12 will result in \$8,675,000 in revenue to the General Fund instead of the Wetland Acquisition, the Local Park Acquisition, the State Land Acquisition, and the Agriculture Resources Conservation Funds. In FY10-11 through FY12-13, \$6,300,000 of cigarette tax revenue will be allocated to the General Fund instead of the Tennessee Agriculture Enhancement Program.

Other Fiscal Impact – The Department of Environment and Conservation will provide approximately \$55,750,000 in state and federal funds from the Clean Water and Drinking Water State Revolving Fund for low-interest loans to local governments and utility districts for drinking water and waste water improvements in FY10-11. Twenty percent, or \$11,150,000, will be provided through a forgiveness of principal or grant that will not be repaid to the fund. Of this amount, \$2,230,000 (20%) are state funds and \$8,920,000 (80%) are federal funds that will not be repaid to the revolving fund.

The Administration Amendment to the Governor's proposed FY10-11 budget reflects \$32,565,300 state cost avoidance.

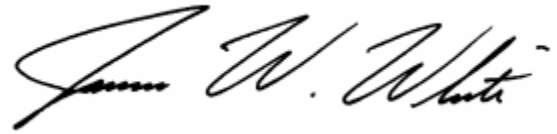
Assumptions applied to amendments:

- The state share of the BEP formula in FY10-11 and subsequent fiscal years will not include growth in capital outlay that otherwise would have occurred. According to the Department of Education, this will result in a cost avoidance of \$29,600,000. The state share is approximately 50 percent of the total non-classroom components of the BEP. Therefore, this would result in a cost avoidance of \$29,600,000 in permissive local expenditures.
- According to the Department of Finance and Administration, the Davidson and Shelby County district public defender appropriations may currently share in the Public Defender Conference's reversion to the General Fund supporting the over-appropriation. In FY08-09, this resulted in a decrease in local revenue of \$85,000 for Shelby County and \$44,000 for Davidson County. Codifying this provision will not result in a new decrease in local revenue, but a continuation of current practice.
- According to the Department of Finance and Administration, the four year average budget of the Cook-Chill program is \$4,094,300. This amount is being transferred to TRICOR with the operation of the Cook-Chill program.
- According to the Department of Finance and Administration, TRICOR will operate the program without a director, compliance officer, truck driver, and dietician that are currently employed by DGS. The Department estimates the elimination of these four positions is estimated to reduce state expenditures by \$400,000 and other expenditures by \$75,600 which is departmental revenue of the user agencies.
- The Department of Correction will require a correctional corporal and two correctional officers resulting in an increase in state expenditures of \$104,800 for salaries (\$74,600) and benefits (\$30,200).
- The net decrease in state expenditures resulting from the transfer of the operation of the Cook-Chill program from DGS to TRICOR is \$295,200 (\$400,000 - \$104,800).
- There is also a Cook-Chill reserve fund that will transfer from the Department of General Services to TRICOR. As of FY07-08 closing, the reserve fund had approximately \$1,500,000.
- The reserve funds enumerated in Tenn. Code Ann. § 4-3-1016 are estimated to total \$292,151,500 at June 30, 2010. These funds will be available for transfer.
- According to the Comptroller's Office, the definition of revenue as it relates to school bond authorities is necessary to ensure that federal subsidies through the American Recovery and Reinvestment Act are received by the 13 – 15 local governments that may issue the bonds instead of being included within the ARRA funds received by the state. This will not result in additional ARRA funds being received.
- According to the Department of Finance and Administration, current Tennessee usury rate of prime plus four percent is low and most recovery zone facility bonds are not able to be issued under current industrial development board law. Increasing the usury rate to prime plus seven percent will result in an increase in the number of bonds issued.
- While an exact amount is not quantifiable due to a number of unknown factors, including the number of municipalities that will issue these bonds and the total amount of bonds to be issued, it is reasonably estimated that there will be an increase of debt service for local governments. For each \$1,000,000 of bonds issued with the additional three percent coupon rate, there will be a \$30,000 increase in the local obligation for the term of the bond issue. As a result, it is estimated that local government expenditures will increase by an amount exceeding \$30,000 for first-year debt service.

- The Department of Environment and Conservation will provide approximately \$55,750,000 in state and federal funds from the Clean Water and Drinking Water State Revolving Fund for low-interest loans to local governments and utility districts for drinking water and waste water improvements in FY10-11.
- According to the Department, the FY09-10 federal congressional appropriation requires that 20 percent be provided through a forgiveness of principal. This will effectively turn \$11,150,000 ($\$55,750,000 \times 20\%$) into a grant that will not be repaid to the fund.
- Of this amount, \$2,230,000 ($\$11,150,000 \times 20\%$) are state funds and \$8,920,000 ($\$11,150,000 \times 80\%$) are federal funds that will not be repaid to the revolving fund.
- There will not be a significant increase in expenditures to ensure that records or materials received, developed, generated, ascertained, or discovered during the course of fulfilling a grant agreement between a public higher education institution and the Department of Economic and Community Development are not public records.
- The Chairs of the Senate and House Finance, Ways, and Means Committees will serve as voting members of the Douglas Henry State Museum Commission. Travel and per diem expenses for two legislative members of \$679 per meeting (\$185 per diem plus \$154.44 mileage for each member).
- Total realty transfer tax revenue and the allocations of such revenue made to the Wetlands Acquisition Fund (\$906,300), the Local Parks Land Acquisition Fund (\$3,718,700), the State Land Acquisition Fund (\$3,112,500), and the Agricultural Resource Conservation Fund (\$937,500) will remain unchanged. Approximately \$8,675,000 will continue to be redirected to the General Fund for an additional two years, effective through June 30, 2012.
- According to the Department of Revenue, there will be three large beer wholesalers and possibly a few smaller wholesalers that will qualify for the tax credit on beer and ale that is unsalable and subsequently destroyed by the flooding that occurred May 1, 2010, through May 8, 2010. The Department estimates that this will result in a one-time decrease in revenue of \$150,000.
- According to the Department of Economic and Community Development, the proposed FY10-11 budget included recurring grants for the development districts of \$1,500,000. The proposed amendment will appropriate these funds on a non-recurring basis. Any future grants will be included in the general appropriations bill for each fiscal year.
- In FY10-11, FY11-12, and FY12-13, \$6,300,000 of cigarette tax revenue that was appropriated to the Tennessee Agriculture Enhancement Program in FY09-10 will be appropriated to the general fund.

CERTIFICATION:

This is to duly certify that the information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink, reading "James W. White". The signature is written in a cursive style with a large, stylized initial "J".

James W. White, Executive Director

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